Supreme Court, U. S.
FILED
OCT 19 1977
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1977

No. 77-440

PLEASURE DRIVEWAY AND PARK DISTRICT OF PEORIA, ILLINOIS, AN ILLINOIS POLITICAL SUBDIVISION, JOHN R. CANTERBURY, JAMES A. CUMMINGS, BONNIE W. NOBLE, CLYDE WEST, HAROLD A. (PETE) VONACHEN, JR., INDIVIDUALLY AND AS MEMBERS OF THE BOARD OF TRUSTEES OF THE PLEASURE DRIVEWAY AND PARK DISTRICT OF PEORIA; RHODELL E. OWENS, INDIVIDUALLY AND AS DIRECTOR OF PARKS AND RECREATION; JACK M. FULLER, INDIVIDUALLY AND AS ADMINISTRATIVE ASSISTANT; DANIEL B. OHLEMILLER, INDIVIDUALLY AND AS BUSINESS ADMINISTRATOR; FRANK D. BORROR, INDIVIDUALLY AND AS SUPERINTENDENT OF MAINTENANCE; WILLIAM McD. FREDERICK, INDIVIDUALLY AND AS ATTORNEY OF PLEASURE DRIVEWAY AND PARK DISTRICT OF PEORIA, GOLF SHOP MANAGEMENT, INC., AN ILLINOIS CORPORATION; AND GORDON RAMSEY,

Petitioners,

vs.

WILLIAM KUREK, WALTER DURDLE, ROBERT TOGIKAWA, EDWIN JONES AND RICHARD HOADLEY,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

BRIEF FOR RESPONDENTS IN OPPOSITION.

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October 18, 1977.

Gunthorp-Warren Printing Company, Chicago • Financial 6-6565

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STATEMENT OF THE CASE.

Petitioners' "Statement Of The Case" and part III of their "Reasons For Granting The Writ" are so misleading, irrelevant

and immaterial as to defy correction and argument. The material facts are accurately stated in the opinion of the Court of Appeals [Pet. App. A-4 thru A-7] and the pleadings are correctly summarized [Pet. App. A-8] thusly:

> [T]his case does not present the question of whether a public agency may grant a monopolistic concession license without violating the antitrust laws, where no more is alleged or proved.[1] Nor does the case simply involve a public agency's attempt to increase operating revenues by increasing concession fees uniformly to its competing concession licensees. The case does involve both of these elements, the defendants urge us to decide the case as if it involved no more, and the district court in dismissing the case, apparently accepted this characterization of the issues raised. But more than that is alleged by *the complaint*, which *charges that the threat of a monopolistic license to GSM and the demand for uniformly increased fees were used by the defendants as means in a broader conspiracy to coerce plaintiffs into raising and fixing their retail prices and that the award of the GSM license was made to punish plaintiffs for refusing to be so coerced.* Acts which may be legal and innocent in themselves, standing alone, lose that character when incorporated into a conspiracy to restrain trade. (Citations.) [Emphasis added.]

The petitioner Pleasure Driveway & Park District of Peoria, Illinois [called Park District] is a special unit of local government within the meaning of the Illinois Constitution. It has no powers other than those delegated by Illinois statute and its revenue powers are limited to the levying of property taxes

1. In a prior appeal to the 7th Circuit, that court vacated and remanded the District Court's dismissal with prejudice and thereafter the District Court granted respondents' request to dismiss without prejudice to their right to refile. [Pet. App. D & E, A-37 *et seq.*] Throughout, petitioners claim some type of *res adjudicata* [see e.g. Pet. 26] or conflict between this and the prior decision of the 7th Circuit [Pet. 14-15]. Assuming a vacated judgment can adjudicate something, the fact of the matter is that the prior complaint did not involve what's involved here. It only "present(ed) the question whether a public agency may grant a monopolistic concession license".

[Ill. Rev. Stat. 1973, Chap. 105 §§ 6-1 *et seq.*] and the charging of fees for the use of its facilities [Ill. Rev. Stat., 1973, Chap. 105 § 8-1(h)].

Respondents, 5 PGA accredited golf professionals, were employed by the Park District as greenskeepers at its 5 public golf courses. They were also granted proprietary pro shop concession rights at the golf course where each was assigned to perform the duties of his employment. During the entirety of their tenancies and tenures (totaling some 83 years) respondents were horizontal retail competitors and between them they constituted the entire public market in Peoria, Illinois for high quality "pro line" merchandise.[2] Moreover, they were required to maintain substantial investments in their inventories, equipment and supplies which required from 3 to 5 years for realization on a going concern basis.

Section 5 of article IX of the Illinois Constitution of 1970 abolished the personal property tax and the Illinois legislature rejected several requests by local park districts for substitute revenues. This led the Park District, in 1973, to consider the possibilities of obtaining greater revenues from the pro shop concessions.

From 1959 to 1973 each respondent operated his pro shop under a series of 1 year agreements whereby 4 of them paid a yearly fee of $600 and the other, who was assigned to a 9 hole course, paid $300. In the late summer and fall of 1973 the Park District revised the fee arrangement and in a confusing and less than harmonious series of negotiations respondents agreed to pay 1½% of their gross receipts.[3]

At about the same time, Park District agents and petitioner Golf Shop Management, Inc. [called GSM] agreed that GSM would make an economically unrealistic proposal to pay

2. Manufacturers of golf equipment and supplies limit retail distribution of quality "pro line" products through golf course pro shops only.

3. See: *Pleasure Driveway & Park District* v. *Kurek*, 27 Ill. App. 3d 60, 325 N. E. 2d 650 (3/27/75).

$90,000 a year to monopolize respondents' business rights as of January 1, 1974. Public bidding specifications which discriminated against the respondents[4] and which were tailored exclusively for the GSM proposal were designed and advertised. They provided that bids must be submitted on December 17, 1973 and that a special Park District Board meeting would be held on December 19 to act thereon. Respondents could not, and did not, make an offer and on December 17, 1973, GSM formalized its $90,000 proposal as a bid. The meeting scheduled for December 19 was never held.

Thereafter, the GSM proposal was coercively laced with respondents' unrealized investments and the threat that their concession rights would not be renewed and was used to induce each of them to enter into illegal sales taxing and price fixing agreements with the Park District. Finally, on January 16, 1974, the Park Board declared that unless each respondent agreed to pay 5% of his gross receipts and to turn his pricing policies over the Park District by 8 a.m., January 19, 1974, his concession rights would be awarded to GSM.

Respondents refused to be so coerced and their businesses were terminated on January 19, 1974 "with the stated intention of continuing (their) employment as greenskeepers."[5] They were served with 30 days notices to terminate their respective tenancies on January 21 and the GSM contract was executed on January 23, 1974.

Under Illinois forcible entry and detainer law the party in possession of premises is entitled to the presumption that he is rightfully there and he who disputes that possessory right has the burden to plead and prove his claim.[6] In order to present

4. 50% of respondents' annual earning derived from their greenskeepers' salaries and the bid specs. provided that if any employee made the successful bid, he would, *ipso facto,* lose his employment.

5. Quote is from *Pleasure Driveway & Park District* v. *Kurek,* 27 Ill. App. 3d at 62, 325 N. E. 2d 650.

6. *Hammond* v. *Doty,* 184 Ill. 246, 56 N. E. 371; *Fitzgerald* v. *Quinn,* 165 Ill. 354, 46 N. E. 287; *Deisenroth* v. *Dodge,* 350 Ill. App. 20, 111 N. E. 2d 575; *Brunton* v. *Habel,* 333 Ill. App. 333, 77 N. E. 2d 566.

their defenses to the Park District's claim for possession respondents refused to voluntarily vacate their respective premises. Accordingly, the Park District filed its Forcible Entry and Detainer suit in the state court on February 20, 1974 and terminated respondents' employment as greenskeepers on the same date.

Respondents prevailed in a 3 week jury trial in the forcible detainer action and the Park District appealed. The Illinois Appellate Court determined that the defenses were not germane to the narrow issue of possession and reversed [*Pleasure Driveway & Park District* v. *Kurek,* 27 Ill. App. 3d 60, 325 N. E. 2d 650 (3/27/75)]. Leave to appeal was denied by the Illinois Supreme Court on June 27, and respondents were judicially evicted on June 30, 1975.

Respondents brought this action in 2 counts. Count I is under 15 U. S. C. §§ 1, 2, 15 and 16 and, in summary, claims that they were terminated "because, on January 19, 1974, they refused to be coercively induced into levying unlawful 5% sales tax levies on their business consumers and because they refused to contract, combine or conspire with the effect of raising, fixing and maintaining their proprietary resale, rental and services prices" [Complaint, par. 25 (Pet. App. A-6)]. Count II is against the individual officers, administrators and attorney of the Park District. It is under 42 U. S. C. § 1983 and the Petition and Due Process Clauses of the First and Fourteenth Amendments and, in summary, it claims that respondents "were summarily terminated from their public employment positions because they asserted their rights of petition and to due process by litigating their defenses to the Park District's forcible entry and detainer action." [Pet. App., A-22.]

The District Court dismissed the antitrust claim with prejudice on the basis of petitioners' misstatement of the case and *Parker* v. *Brown,* 317 U. S. 341 (1943) and *Eastern Railroad Presidents Conference* v. *Noerr Motor Freight, Inc.,* 365 U. S. 127 (1961) and their progeny. It dismissed the constitutional

claim on the grounds that the Park District is not a person within the meaning of 42 U. S. C. § 1983[7] and that the individual defendants were protected by a previous state court adjudication [Pet. App. A-3, A-22 & A-23]. The 7th Circuit reversed and remanded as to both counts.

In its analysis of Count I the Court of Appeals relied on *Goldfarb* v. *Virginia State Bar*, 421 U. S. 773 (1975); *Duke & Company, Inc.* v. *Foerster*, 521 F. 2d 1277 (3d Cir. 1975); *City of Lafayette, Louisiana* v. *Louisiana Power & Light Company*, 532 F. 2d 431 (5th Cir., 1976)[8] and analogized to *Cantor* v. *Detroit Edison Co.*, 428 U. S. 579 (1976) and concluded:

> Nothing in the Illinois statutory provisions governing park districts even remotely suggests that Illinois has authorized, let alone compelled, park districts to enrich themselves by coercing horizontal retail competitors operating under concession licenses to fix retail prices in what would otherwise be a plain violation of the Sherman Act. * * * That the Park District's conduct concerned its golf courses and involved its statutory powers to contract and/or lease surely does not convert Illinois grant of such powers into state authorization or mandate to use them to force private competitors to violate the antitrust law. [Pet. App. A-14 and A-15.]
>
> This conclusion is strengthened by the complaint's allegations that the Park District, in demanding 5% of gross sales as a concession fee and requiring as a condition of concession renewal that plaintiffs raise and fix their prices * * * was effectively attempting to impose on the Peoria golfing public a 5% hidden sales tax that is illegal under Illinois law. * * * If it can be proven that the concession fee's intended incidence would have operated as an illegal sales tax, it would be extremely difficult, if not impossible, to find a state mandate underlying the Park District's alleged conduct. [Pet. App. A-15.]

7. There is no dispute about this in light of *Kenosha* v. *Bruno*, 412 U. S. 507; *Moor* v. *Alameda County*, 411 U. S. 693; *Monroe* v. *Pape*, 365 U. S. 167 and the rationale of *Aldinger* v. *Howard*, 427 U. S. 1.

8. Cert. granted ..... U. S. ..... [45 USLW 3647 (No. 76-864, 3/28/77)].

As to Count II, the court below held that the individual defendants were neither parties nor privies in the state court suit thus making the doctrine of *res adjudicata* inapplicable and that "Nothing in th(e) state court judgments supports the district court's conclusion that it had been previously adjudicated that 'the exercise of the right to litigate issues' was not the reason for plaintiffs' employment discharges." [Pet. App. A-23 and A-24.]

ARGUMENT.

I.

Petitioners contend that the "Court in *Parker* v. *Brown*, *supra*, recognized Congress's concern and intent in holding that the antitrust laws do not apply to otherwise valid governmental action" [Pet., 12]. In order to supply the "valid governmental action" they go on and misstate the case thusly:

> The Park District was involved in a valid governmental function of operating public golf courses on public land for public benefit when its elected trustees, in carrying out their official duties with which they are charged, awarded the right to operate the golf pro shops at the 5 public courses, which it owned to Golf Shop Management, Inc., the highest bidder as required by Illinois Public Bidding Act ch. 127, § 132.1 *et seq.* Ill. Rev. Stat. (1975)[9] [Pet., 11].

But here, the Park District "attempted to enrich (itself) by coercing horizontal retail competitors operating under concession licenses to fix retail prices in what would otherwise be plain violation of the Sherman Act" and the 7th Circuit held that "Nothing in the Illinois statutory provisions governing park districts even remotely suggests that Illinois has authorized, let alone compelled" such conduct [Pet. App. A-14].

9. If this were the case, then why did the petitioners use "the highest bidder" in the abortive attempt to coerce the non-bidding respondents into *per se* violations of section 1 of the Sherman Act.

How can petitioners persist in their refusal to recognize the case and in the same breath ask the Supreme Court of the United States to grant plenary review? They contend that "The decision below conflicts with Parker v. Brown and decisions in other circuits, misapplies Goldfarb and Cantor, and conflicts with the Seventh Circuit's own decisions in this case's predecessor and Metro Cable" [Pet., 9 *et seq.*] but they provide no basis for analysis.

The Petition asserts nothing more than the claim that the Park District is entitled to status-oriented rather than activity-oriented immunity under the federal antitrust laws and that review should be granted because it has been granted in *City of Lafayette, Louisiana* v. *Louisiana Power & Light Co.*, 532 F. 2d 431 (5th Cir. 1976). This case is not the same as *City of Lafayette, supra.*

Consistent with *Goldfarb* v. *Virginia State Bar*, 421 U. S. 773 (1975) and its progeny, the 7th Circuit has here held that the Park District is not entitled to status-oriented immunity and that the fact "That the Park District's conduct concerned its golf courses and involved its statutory powers to contract and/or lease surely does not convert Illinois' grant of such powers into state authorization or mandate to use them to force private competitors to violate the antitrust law." [Pet. App., A-15.] The opinion below was cited at page 11 of the "Brief For The United States as Amicus Curiae" in *City of Lafayette* v. *Louisiana Light & Power Co., supra,* [Supreme Court No. 76-864] for the proposition that a status-oriented "Rule would require federal policy to yield to a variety of local decisions that may have little to do with an articulable state policy and that may be severely detrimental to the interests protected by federal law."

Petitioners rely on the "*valid* governmental action" [emphasis added] language of *Parker* v. *Brown*, 317 U. S. 341. Yet the *Parker* decision itself states that a State cannot give immunity to those who violate the Sherman Act "by declaring that their

action is lawful (citations) and we have no question of the state or its municipality becoming a participant in a private agreement or combination by others for restraint of trade." This is what petitioners refer to when they say that "The only exception which the court (*sic*) in *Parker* v. *Brown* anticipated was based on its previous decision in *Union Pacific R. Co.* v. *United States*, 313 U. S. 450 (1941)" [Pet., 12].

In *Union Pacific R. Co., supra,* the Court held that a city violated a federal statute when it made certain concessions to private enterpreneurs who agreed to move their businesses to the city's new market area and even though the city acted in what it perceived to be in the general economic welfare the Court ruled that it (the city) became a participant in a private conspiracy thereby exposing it to liabilities under federal law.

Respondents were proprietary businessmen, they engaged in horizontal retail competition, they provided the exclusive retail outlets for their product in the relevant market and they received their inventories *etc.* through the interstate flow of commerce. In sum, they were, in all respects, subject to the Sherman Act. And the fact that they held their rights under grant of a unit of local government did not make them immune from liabilities imposed by the Clayton Act because "This Court has never sustained a claim that otherwise unlawful private conduct is exempt from the antitrust laws because it was permitted or required by state law." [*Cantor* v. *Detroit Edison Co.*, 428 U. S. 579 (1976)].

This case can only be tested as if respondents had succumbed to the coercion and entered into the contracts with the Park District in *per se* violation of section 1 of the Sherman Act. Had that occurred, we would have a "municipality becoming a participant in (5) private agreement(s) . . . for restraint of trade" [*Parker* v. *Brown*, 317 U. S. at 351] and petitioners' claim that "the decision below conflicts with *Parker* v. *Brown* and . . . misapplies Goldfarb and Cantor" is without foundation in fact.

If this case stands for anything beyond its own parameters, it stands for the proposition that the opinion and judgment of the 5th Circuit in *City of Lafayette* v. *Louisiana Power & Light Co.*, 532 F. 2d 431 (U. S. Supreme Court No. 76-864) must be affirmed.

II.

Under part II of "Reasons For Granting The Writ" petitioners contend that "Respondents Were Not Deprived Of Their Civil Rights . . . Where No Property Right in Such Employment Is Alleged and Where Numerous Valid Reasons Exist for Such Discharges Even Though One of the Reasons Is Alleged to Have Been a Protected Right" [Pet. 16]. They rely upon *Board of Regents* v. *Roth*, 408 U. S. 564 (1972) and *Mt. Healthy City School District* v. *Doyle*, ... U. S. ..... (1977) and argue as follows:

1. Respondents had no protected property interest in their jobs as required by *Roth*.
2. Under *Mt. Healthy* the test "is whether the protected conduct was the *sine qua non* for the discharge" and "The Court of Appeals test is whether the protected conduct 'to some extent at least' is a factor in the dismissal."
3. Thus, the 7th Circuit is wrong and "This Court has the opportunity here to give direction to its circuit courts so that the important doctrines of *Roth* and *Mt. Healthy* are completely understood and followed throughout the circuits."

The petitioners—not the 7th Circuit—are the ones who misunderstand and need direction concerning "the important doctrines of *Roth* and *Mt. Healthy*". By couching their position in terms of *Board of Regents* v. *Roth*, 408 U. S. 564 (1972) rather than in terms of *Perry* v. *Sinderman*, 408 U. S. 593 (1972), they hopelessly hybrid and confuse the issues and principles involved. The following from *Mt. Healthy City School District* v. *Doyle*, ... U. S. ..... (50 L. Ed. 2d at 481) makes the distinction plainly clear:

> Doyle's claims under the First and Fourteenth Amendments are not defeated by the fact he did not have tenure. Even though he could have been discharged for no reason whatever, and had no constitutional right to a hearing prior to the decision not to rehire him, *Board of Regents* v. *Roth*, 408 U. S. 564 (1972), he may nonetheless establish a claim to reinstatement if the decision not to rehire him was made by reason of his exercise of constitutionally protected First Amendment freedoms. *Perry* v. *Sinderman*, 408 U. S. 593 (1972).

There is no claim here that respondents' governmental employment terminations deprived them of "any protected property right" within the meaning of *Board of Regents* v. *Roth*, *supra*. The claim here is that respondents had the right to litigate their defenses to the Park District's forcible detainer suit under the Petition and Due Process Clauses of the First and Fourteenth Amendments [*California Motor Transport Co.* v. *Trucking Unlimited*, 404 U. S. 508, 510 (1972); *Lindsey* v. *Normet*, 405 U. S. 56, (1971); *Maryland Public Research Group* v. *Elkins*, 430 F. Supp. 387, 393 (D. Md. 1976)] and that petitioners would not have terminated them but for their constitutionally protected conduct.

Furthermore, petitioners are equally wrong in claiming that under *M. Healthy* the test "is whether the protected conduct was the *sine qua non* for the discharge" and that the 7th Circuit erred because its "test is whether the protected conduct 'to some extent at least' is a factor in the dismissal." [Pet. 17.] Here again the court below followed *Mt. Healthy* to the letter and, on remand, petitioners will have the burden of proving that they would have discharged respondents "even in the absence of the protected conduct," *viz*:

> Initially . . . the burden was properly placed upon respondent to show that his conduct was constitutionally protected, and that this conduct was a 'substantial factor'

> —or, to put it in other words, *that it was a 'motivating factor' in the Board's decision* not to rehire him. Respondent having carried that burden, however, the District Court should have gone on to determine *whether the Board had shown* by a preponderance of the evidence *that it would have reached the same decision as to respondent's employment even in the absence of the protected conduct.* [*Mt. Healthy City School District* v. *Doyle, supra,* 50 L. Ed. 2d at 484 (emphasis added)].

For the foregoing reasons the 7th Circuit was clearly correct and the petitioners have failed to even suggest why the writ should be granted to review the constitutional claims.

III.

Part III under "Reasons For Granting The Writ" is but another episode in petitioners' continuing "pattern of baseless, repetitive claims" that are being used as an anticompetitive device to prevent respondents from having an adjudicatory trial on the merits [See: *California Motor Transport Co.* v. *Trucking Unlimited,* 404 U. S. 508, 513]. In essence, they are asking this Supreme Court of the United States to resolve in their favor what they claim are disputed fact questions on the pleadings. This part of the Petition is masively deceptive and misleading and respondents, while not able to qualify to proceed *in forma pauperis,* are far from able to carry the burden of the printing costs necessary to point out each and every instance of material misrepresentation of fact. The following example should suffice.

At pages 19-20 the Petition states: "GSM via a successful bid as required by the Public Bidding Act, in fact obtained the concession rights. The contract (cite) requiring a performance bond in the amount of $125,000 and an increased rent (to date GSM has paid the park district $120,000 which is 10 times the most ever received from the [golf pros] over a similar period) was executed and no allegation was made by the [golf pros] that it was not being performed." This statement is false in fact and

is wholly unsupported in the record. The deceptive device employed was to cite to "Petition for Rehearing *en banc* pages 5 and 6" to which respondents, under Rule 40 of the Federal Rules of Appellate Procedure, could not respond. On this record, the only relevant facts appear in paragraphs 19(a) and 29 of the complaint, *viz*:

> Without prior appropriation and otherwise in violation of Const. of Ill. 1970 Art. VIII §§ 1(a) & 1(b) and Ill. Rev. Stat., Chap. 105 §§ 4-4 & 4-6 substantially more than $215,000 of local governmental funds, credit and property has been misused to subsidize the proprietary interests of GSM.

> The Concession Agreement with GSM is an exclusive or monopolistic commercial license and was induced by monumental private and public frauds, as aforesaid, including the continuing deceit that it ever has, can or will, result in payments of $90,000 a year by GSM to, for or on behalf of the constituency of the Park District.

The essence of part III of the Petition is that "The Court of Appeals fails to give serious consideration to the prior federal opinions or the state court decisions, as well as Illinois law, but at the same time, shows the Court's willingness to construct a cause of action for the golf pros." At the oral argument before the 7th Circuit the following transpired:

> JUDGE PELL: Are you, excuse me for interrupting but you got—you have a limited time here to get to the ultimate issue, are you relying primarily on *Noerr—Pennington* or are you relying upon the fact of *res adjudicata* some way out of the fact that they could have litigated the antitrust issue in the state proceedings?
>
> MR. ALTENBERGER:[10] We are not relying on the fact that they could have litigated the antitrust proceedings.
>
> JUDGE PELL: So (you) are relying on *Noerr—Pennington* primarily on count I?

---

10. Petitioners' attorney here and in the courts below.

MR. ALTENBERGER: We are relying on the *Parker* v. *Brown* doctrine and its progeny going through *Noerr—Pennington*. Yes, your Honor.[11]

In any event, jurisdiction over federal antitrust claims lies exclusively in the courts of the United States [See *e.g.*: *Freeman* v. *Bee Machine Co.*, 319 U. S. 448; *General Investment Co.* v. *Lake Shore & M. S. R. Co.*, 260 U. S. 261]. As stated by Judge Learned Hand in *Lyons* v. *Westinghouse Electric Corp.*, 222 F. 2d 184, 189 (2d Cir., 1955):

> In the case at bar it appears to us that the grant of the district courts of exclusive jurisdiction over the action for treble damages should be taken to imply an immunity of their decisions from any prejudgment elsewhere; at least on occasions like those at bar, where the putative estoppel includes the whole nexus of facts that make up the wrong. The remedy provided is not solely civil; ⅔rds, of the recovery is not remedial and inevitably presupposes a punitive purpose. It is like a *qui tam* action, except that the plaintiff keeps all the penalty, instead of sharing it with the sovereign. There are sound reasons for assuming that such recovery should not be subject to the determinations of state courts. It was part of the effort to prevent monopoly and restraints of commerce, and it was natural to wish it to be uniformly administered, being national in scope. . . . Obviously, an administration of the Acts at once effective and uniform would best be accomplished by an untrammeled jurisdiction of the federal courts.

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11. The 7th Circuit tape records oral arguments and the recording is part of the record. By 7th Circuit order entered September 21, 1977, respondents were granted leave to make a tape recording copy of the recording in the record and this is the source of the quoted colloquy.

CONCLUSION.

For the foregoing reasons, and for others implicit therein, respondents request that the Petition For Writ Of Certiorari be denied.

Respectfully submitted,

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